

TOWN OF LOS GATOS  
REQUEST FOR PROPOSALS

WORKERS' COMPENSATION CLAIMS ADMINISTRATION SERVICES



<b>Submit Response To:</b>  <b>Jackie Rose, Clerk Administrator</b> Town of Los Gatos - Clerk Department 110 E. Main Street Los Gatos, CA 95030	<b>REQUEST FOR PROPOSAL</b>
<b>Instructions for Submittals:</b> Submit five copies of the written proposal by mail or in person to the address indicated above.	<b>Proposals shall be clearly identified as:</b> Response to Request for Proposals for Workers' Compensation Claims Administration Services
<b>All questions regarding this RFP should be directed to:</b>  Sean Tran Email: <a href="mailto:stran@losgatosca.gov">stran@losgatosca.gov</a>	<b>Deadline for Receipt of Proposals:</b>  Responses must be received in writing no later than 3:00 PM on <b>April 2, 2010</b> .

**OBJECTIVE**

The Town of Los Gatos, hereinafter referred to as the ("Town"), will be accepting SEALED REQUEST FOR PROPOSALS from qualified Third Party Administrators, hereinafter referred to as the ("TPA"), for administration of Town's self-insured workers' compensation program. The contract period will be for three years, with the option to renew for one or more years. Renewals periods are by mutual agreement and not automatic.

All proposals and related materials become the property of the Town and may be returned only at its option.

## **I. BACKGROUND**

The Town of Los Gatos has approximately 30,000 residents and is located 50 miles south of San Francisco, in the southwestern portion of Santa Clara County. Known for its vibrant, historic downtown and residential architecture, Los Gatos is considered to be one of the most desirable communities in the Bay Area. Los Gatos has a Council-Manager form of government and provides a full range of municipal services including public safety, public works, library, community development, community services, and general administration.

The Town's payroll for the 2008-2009 fiscal year covered approximately 155 full-time equivalent positions, for approximately \$10 million for non-safety and \$6 million for safety, for a total payroll of \$16 million.

The number of claims for fiscal year 2009 (July 1, 2008 through June 30, 2009):

Medical Only – 12

Indemnity Only – 8

As of this date, there are currently 3 "medical only" and 29 "indemnity" claims in an open status. The Town's current TPA is Innovative Claim Solutions (ICS). This project is being re-bid because the contract with ICS expires on June 30, 2010.

The Town is a member of a joint powers authority for the purpose of obtaining excess workers' compensation coverage. Under this arrangement, the Town maintains a self-insured retention of \$250,000 and excess coverage with statutory limits.

The Town's Director of Human Resources is responsible for management of the Town's workers' compensation program including administration of the TPA contract. The Town's Human Resources Department coordinates all aspects of the worker's compensation program with the TPA.

## **II. SCOPE OF WORK**

The Town of Los Gatos is seeking a Third Party Administrator to perform the full range of services related to the administration of the Town's self-insured workers' compensation program. The Town is interested in obtaining a TPA who will be able to favorably respond to the following performance objectives:

### **1. Caseload**

TPA shall adhere to best practices in maintaining staffing levels in order to effectively handle Town's new and existing open workers' compensation claims. Accordingly, each examiner shall have a caseload not to exceed 175 open indemnity claims. TPA shall also apply best practices in case management assigned to both support and supervisory personnel.

## 2. Forms

TPA shall provide all forms necessary for the processing of benefits or claims information including the Employer's Report of Injury, DWC Form 1, medical service orders, return-to-work notices, lost-time information reports, vouchers, checks, and other related forms. TPA shall prepare and file on behalf of Town all legally required forms and reports with the Administrative Director and the Rehabilitation Unit of the California Division of Accidents.

## 3. Program Implementation Services

In conjunction with the claims administration services, upon and commencement of the Term, TPA will provide the following assistance to Town in establishing and implementing its programs and procedures for self-insurance:

- i. Review and input into database all open files transferred from the current administrator.
- ii. Review and storage of all closed files assumed from the current administrator.
- iii. Develop and provide a printable claim reporting procedure manual (including the most recent workers' compensation reform information) for distribution to all departments and key employees.
- iv. Conduct initial program implementation visits to the Town to distribute claim manuals and discuss self-insurance and TPA service program with key staff.
- v. Design and implement all accounting and trust fund procedures.
- vi. Program the new claim database and design all necessary reports.
- vii. Review safety and loss control programs and suggest needed cost containment measures for program control.

## 4. Claim File Set Up and Diary Review

Upon receipt of the Employer's Report of Injury, the TPA will prepare an individual claim file within one working day for each claim. All claim files shall be reviewed at least every thirty (30) days for active claims and at least every six (6) months for claims that have settled but are open for the employee's future medical care. The examiner shall distinguish the regular diary review from routine diary reviews by printing a "No Activity" report each month to identify any files that have fallen off the diary system.

## 5. Employer Contact

The TPA shall immediately request the Employer's Report of Injury form when or if the Doctor's First Report of Injury is received first.

If the TPA has not received the DWC Form 1 within one to two days after receiving the Employer's Report of Injury, the examiner will contact the Town to ensure that the DWC Form 1 was given to the employee within one working day of knowledge of the injury. If a DWC Form 1 had not been given to the injured employee, the TPA shall immediately send the DWC Form 1 directly to the employee.

The TPA shall contact the Town within twenty-four (24) hours of receipt of notice of claim. Such contact with the Town shall be documented electronically.

When a claim reaches or exceeds \$50,000 in total incurred value, the TPA shall report to the Town every ninety (90) days regarding the status of the claim. Such report shall include the examiner's plan of action for the future handling of the claim.

The examiner will provide file reviews bi-annually. Additional on-site file reviews will be scheduled based upon the needs of the Town.

In addition, the TPA will respond to all Town phone calls and e-mails within one (1) working day.

## 6. Employee Contact

In all non-litigated, lost time cases, where the employee has not returned to work, telephone or personal contact will be established with the injured employee within twenty-four (24) hours of receipt of notice of claim. Such contact will continue as often as necessary, but at least monthly. At the request of Town, the contact may be more often than monthly. Such contact with the employee shall be documented electronically.

Return phone calls or e-mails to employees will be accomplished within one (1) working day.

All written and/or electronic correspondence from employees will be responded to within five (5) days of receipt.

7. Workers' Compensation Trust Account

The TPA shall pay on behalf of Town out of the bank workers' compensation trust account funded by Town all "Allocated Loss Expense" which is defined to include all fees of attorneys, witnesses, court reporters, process servers, independent investigators, any court of Workers' Compensation Appeals Board, for depositions, surveillance or the necessary engagement of personnel in the handling of any claim subject to this Agreement.

The TPA shall notify Town at least ten (10) business days prior to the time when additional funds are required in the bank workers' compensation trust account.

8. Reserves

Set and maintain appropriate case reserves based upon the ultimate probable cost of each claim. All reserve categories shall be reviewed on a regular basis but not less than at least every ninety (90) days. Such review, including an explanation for any changes to reserves, shall be documented electronically. The examiner shall utilize a reserve worksheet which has been approved by the Town, the Town's private excess insurance carrier and/or Local Agency Workers' Compensation Excess Joint Powers Authority pursuant to that JPA's Resolution Establishing a Claims Management Policy.

9. Medical Administration

The TPA shall select a panel of general practitioners, specialists, hospitals, and emergency treatment facilities to which injured employees should be referred, as approved by the Town, and the TPA shall regularly review and update the panel.

The physician's office will be contacted within five (5) days of notice of claim. Such contact will continue as needed during the continuation of temporary disability to assure that treatment is related to a compensable injury or illness.

The TPA shall maintain contact with treating physicians to ensure employees receive proper medical treatment and are returned to full or modified employment at the earliest possible date.

The TPA shall maintain direct contact with medical service providers to ensure their reports are received in a timely manner.

The TPA shall arrange medical evaluations when needed, reasonable, and/or requested in compliance with the current Labor Code.

The TPA shall ensure that medical bills are reduced to the Relative Value Schedule (RVS) and recommended rates established by the Administrative Director of Workers' Compensation. The use of a service contractor is acceptable provided the Town's approval is first obtained. The Town shall pay for the use and benefits of the services provided; however, fees charged by the service contractor shall have been approved by the Town prior to the provision of services.

The TPA shall provide, at the Town's expense, utilization review and/or professional managed care services on an as-needed basis to injured employees, provided the member city and/or Town's approval is obtained prior to the provision of such service.

#### 10. Medical Payments

Medical bills will be matched to the file, reviewed for correctness, approved for payment, and paid within the time limits established by the California Labor Code. If all or part of the bill is being disputed, the TPA will notify the medical provider, on the appropriate form letter, within the time limits established by the California Labor Code.

#### 11. Plan of Action

Each claim file shall contain the examiner's plan of action for the future handling of that claim. Such plan of action will be documented electronically.

#### 12. Investigation

The TPA shall investigate, as necessary and appropriate, cases that appear questionable and the status of disabled employees in order to properly and promptly adjust all cases and to assist in the trial or settlement of litigated cases.

#### 13. Compensability

The compensability determination (accept claim, deny claim, or delay acceptance pending the results of additional investigation) and the reasons for such determination will be made and documented in the file within three (3) working days of the receipt of the notification of the loss. Delay of benefit letters shall be mailed in compliance with the Division of Industrial Relations' guidelines.

In no case shall a final compensability decision be extended beyond ninety (90) days from the Town's knowledge of the claim.

#### 14. Provision of Benefits

The TPA shall provide all compensation and medical benefits in a timely manner and in compliance with the statutory requirements of the California Labor Code. The TPA shall compute and pay temporary disability benefits to injured employees based upon earnings information and authorized disability periods. The TPA shall review, compute, and pay all informal ratings, death benefits, findings and awards, life pensions, or compromise and release settlements. However, all such benefits shall be paid by the Town from the established trust fund.

#### 15. Initial Indemnity Payment

The initial indemnity payment or voucher will be issued and mailed to the injured employee together with a properly completed DWC notice within the time limits established by the California Labor Code.

Late payments must include the self-imposed penalty amount in accordance with the California Labor Code.

#### 16. Subsequent Indemnity Payments

All indemnity payments or vouchers subsequent to the first payment will be verified, except for obvious long-term disability, and issued in compliance with the California Labor Code.

#### 17. Return to Work

The TPA shall maintain regular contact with injured workers and their physicians with the goal of returning the employees to modified or regular work as soon as possible.

The TPA shall consult frequently with the Town in those cases where the injury residuals might involve permanent work restrictions and/or retirement potential.

#### 18. Transportation Expense

All necessary travel expenditures, including transportation reimbursement or advance travel expense payments, will be processed in a timely manner and in compliance with the requirements of the California Labor Code.

## 19. Permanent Disability

The TPA shall determine the nature and extent of permanent disability and arrange for an informal disability rating whenever possible to avoid Workers' Compensation Appeals Board litigation.

The TPA shall explain to the injured employees permanent disability ratings, assist with completing the necessary forms, and send all permanent disability benefit notices to the employee as required by the California Labor Code.

## 20. Litigated Cases

The TPA shall promptly initiate an investigation of issues identified as material to potential litigation. The Town shall be alerted to the need for an outside investigation as soon as possible and the examiner shall appoint an investigator who is acceptable to the Town. The Town shall be kept informed on the scope and results of all investigations.

When defense counsel is not necessary, the TPA shall work closely with the applicant's attorney in informal disposition of litigated cases. All assignments to outside counsel will be done with the Town's authorization and consent. In conjunction with the Town, the TPA shall monitor the outside counsel's progress. The TPA shall audit all bills before payment.

Settlement proposals directed to the Town shall be forwarded by the TPA or defense counsel in a concise and clear written form with a reason(s) for such recommendation.

All preparation for a trial shall involve the Town so that all material evidence and witnesses are utilized to obtain a favorable result for the defense.

The supervisor or the examiner shall attend Workers' Compensation Appeals Board hearings, rehabilitation hearings, meetings with defense counsel, and the meetings with member cities' staff, departments, and employee groups as necessary and as requested to do so.

## 21. Settlements

The TPA shall obtain the Town's authorization on all settlements or stipulation. All requests for settlement authority shall include a written claim summary, estimate of permanent disability, and the defense counsel's comments and recommendations, if any.

## 22. Subrogation

In all cases where a third party is responsible for the injury to the employee, the TPA will send a letter to the Town indicating they will pursue subrogation unless instructed otherwise by the Town. When subrogation is to be pursued, the third party shall be contacted promptly, and where appropriate, complaints in Subrogation shall be filed within the applicable statute of limitations. TPA shall continue collection efforts until recovery is made.

The TPA shall also protect the interests of the Town in third party cases where the injured worker brings a civil action against the responsible party by filing a Lien or a Complaint in Intervention in the civil action. Whenever practical, the TPA should take advantage of any settlement in a civil action by attempting to settle the workers' compensation claim by means of a third party compromise and release. If such attempt does not succeed, then every effort should be made through the WCAB to offset claim expenses through a credit against the proceeds from the injured worker's civil action.

## 23. Vocational Rehabilitation/Supplemental Job Displacement Benefits (SJDB)

In accordance with all applicable California laws in effect at the date of injury, the TPA shall make a determination of the Qualified Injured Worker/Non-Qualified Injured Worker status, advise the injured worker of his/her rehabilitation/SJDB benefits, and coordinate the vocational rehabilitation/SJDB benefits.. The TPA shall also establish and manage reserves for vocational rehabilitation/SJDB benefits.

## 24. Claim Reconciliation

All claim files shall be reconciled to ensure all medical, indemnity, and expense payments have been made to the correct provider, in the correct amount, and from the correct claim file. All open claim files shall be reconciled 1) any time there is a change from one benefit to another (e.g., from temporary disability to permanent disability), 2) when ten indemnity checks have been issued, or 3) at least annually. The physical file should be verified with the computer information and proof of the reconciliation should remain in the claim file.

## 25. Excess Insurance

Cases that have the potential to exceed the Town's self-insured retention shall be reported in accordance with the reporting criteria established by the Local Agency Workers' Compensation Excess Joint Powers Authority (LAWCX) and any other excess insurance policies. All cases which meet the established reporting criteria are to be reported within the required time limits.

## 26. Award Payment

Payments on awards, computations, or compromise and release agreements will be issued promptly in accordance with the decision of the Workers' Compensation Appeals Board or the Stipulated Settlement.

## 27. Penalties

The Town will be advised of the assessment of any penalty for delayed payment and the reason thereof and the TPA's plans for payment of such penalty as soon as practical or within five (5) days of assessment, whichever is sooner.

## 28. Case Closure

The TPA shall review files to ensure timely closure. Although precise times for claims finalization will vary within the individual case, the TPA shall close all claims on which all medical and compensation benefits have been provided within a reasonable amount of time. Claim files shall not be allowed to go without examiner attention for a period of time longer than six months. Medical only claims shall not remain open longer than six months without good cause.

Medical only cases must be closed within sixty (60) days from the date the letter went to employee indicating there is no permanent disability.

The TPA will monitor stipulated cases with future medical provisions. Reserves for future medical will be reviewed semi-annually and adjusted according to use.

## 29. Loss Runs

The loss run shall be issued within fifteen (15) days following the closing date. Any corrections that are requested to be made to the loss run shall be made within thirty (30) days. At no additional charge, TPA will provide the following reports semi-annually unless specified otherwise:

- Graphic reports reflecting the highest cost department and loss-types.
- Recaps of litigated claims and other mutually accepted categories.
- Consolidated reports showing total costs and claim counts for all participating public agencies by year.
- Semi-annual casual reports and annual reports.
- Monthly tape edits.

Requests for status of claims generated by the Town shall be provided within thirty (30) days.

### 30. Claims Reporting

The TPA shall maintain all loss information as required by the Workers' Compensation Insurance Rating Bureau.

The TPA shall assist in the preparation of all reports that are now, or will be required by the State of California or other government agencies with respect to self-insurance programs. The TPA will also assist in the preparation of all reports or databases required by statistical database organizations as requested by the Town.

The TPA shall provide and make appropriate claims reports to excess carriers and collect excess recoveries, including the return of excess recoveries to Town, subject to Town providing TPA with a list of excess carriers for the ten preceding years, and identifying the policy numbers and the parties to whom reports are to be directed.

### 31. Program Implementation Services

In conjunction with claims administration services, upon and commencement of the Term, TPA will provide the following assistance to Town in establishing and implementing its programs and procedures for self-insurance:

- i. Review and input into the database all open files transferred from the current administrator.
- ii. Review and storage of all closed files assumed from the current administrator.

### 32. Record Retention

All claim files shall be maintained in accordance with statutory time requirements and the Town's Record Retention Policy.

### 33. Claim Supervision

The TPA shall provide supervisory staff that will regularly review the work product of the claims examiners. The supervisor shall review at least ten percent (10%) of each examiner's caseload each month to ensure each examiner is following the performance standards outlined in this RFP. In addition, the supervisor shall conduct a regular quarterly review of all open indemnity claims with reserves in excess of \$50,000 and all problem or complex claims.

#### 34. Availability of TPA Personnel

The TPA shall at all times, have one or more of the examiners assigned to the Town's dedicated unit, or in their absence, the supervisor or Vice President of Workers' Compensation available by telephone for emergencies through a 24-hour emergency telephone number.

The TPA shall ensure at least one or more of the examiners assigned to the Town's dedicated unit is on-site and available to the Town every business day throughout the term of the contract period.

The Town shall have the right and opportunity to approve or reject any proposed examiner provided by the TPA. Town shall also have the opportunity to review service provided by examiner and require a new examiner if service is unacceptable to Town.

#### 35. Examiner Training

The TPA shall ensure each claims examiner handling the Town's claims will receive continuing education training each year. TPA shall annually certify this in writing.

#### 36. Member Services

The TPA shall provide special on-site training services upon execution of contract. Thereafter, a dedicated unit examiner shall make an annual on-site visit to review workers' compensation program procedures, including reporting requirements and other program matters that require the timely participation of the Town's personnel.

A copy of the Town's claims manual shall be readily available for review by the appropriate Town staff or representative. An examiner shall also be available and readily respond to Town's request for assistance with problem cases, including on-site visits to the city.

The TPA shall provide the Town with information regarding statutes, proposed changes to statutes, and changes to the rules and regulations affecting the Town and its responsibility as a legally uninsured workers' compensation authority.

#### 37. Employee Services

The TPA will develop, for review by the Town, materials which will provide information and guidance to Town employees regarding workers' compensation and the self-insurance program. As required, the TPA will meet with and assist injured employees in resolving problems that arise from injury or illness claims.

### 38. Penalties and Fines Under Workers' Compensation Laws

- i. The TPA and Town expressly agree that (i) any penalties and fines arising under workers' compensation laws caused by failure of TPA to perform its obligations under this Agreement shall be paid by TPA and (ii) any penalties and fines arising under the workers' compensation law caused by failure of Town to perform its obligations under this Agreement, or by late filings made or other action of omissions of the TPA taken at the direction Town, shall be paid by Town.
- ii. Notice of Penalties: TPA agrees to use its best efforts to promptly notify Town of situations that they discover which may result in penalties.
- iii. Survival: The provisions of this Section 38 shall survive any termination of this Agreement.

### III. INSURANCE REQUIREMENTS

The TPA shall demonstrate the willingness and ability to provide the required insurance coverage as set forth below within ten calendar days of notification of selection for award of this Agreement. The selected TPA will be required to carry, and provide certificates of insurance for, general and automobile liability insurance as follows:

- General Liability: \$1,000,000 Minimum per Occurrence
- Automobile Liability: \$1,000,000 Minimum per Accident
- Professional Liability: \$1,000,000 Minimum for professional errors or omissions
- Worker's Compensation: As Required by California State Law

The General Liability Insurance is to contain or be endorsed to name the Town, its officers, officials, employees and agents as Additional Insured as respects liability arising out of the activities performed in connection with this contract. The coverage shall be primary and shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability. Original endorsements, signed by a person authorized to bind coverage on its behalf, shall be furnished to the Town by the successful firm.

Worker's Compensation policies are to be endorsed to include a waiver of subrogation against the City, its officers, officials, employees and agents. All endorsements are to be received and approved by the Town prior to the commencement of any work.

#### **IV. PROPOSAL CONTENT REQUIREMENTS**

The Proposal should include the minimum information requested below in the order listed. Additional information, if provided, should be separately identified in the proposal.

1. Cover letter on company's letterhead summarizing the proposal and signed by an individual authorized to execute legal documents on behalf of the proposer including:
  - a) A summary of the qualifications of the firm to perform the services described herein, including, but not necessarily limited to:
    - i. The firm's length of time in administering workers' compensation claims, including previous experience in performing similar services for other municipalities;
    - ii. The firm's ability to comply with the SCOPE OF WORK as outlined in Section II above. Please also indicate whether the firm can comply with the INSURANCE REQUIREMENTS outlined in Section III above.
2. The proposal shall contain the following:
  - a) Legal name and address of company; if company is wholly owned subsidiary of a "parent company," identify the "parent company."
  - b) Legal form of company (partnership, corporation, joint venture, etc.). If joint venture, identify the members of the joint venture and provide all information required under this section for each member.
  - c) If the company has more than one office, identify the office that would service the Town's claims and the office that would service the Town for loss data or functions other than claims adjusting.
3. Description of Personnel Qualifications including the names, title and qualifications (resumes) of the proposed principal account representative(s) and support staff and subcontractors who will be assigned to administer the Town's claims. Please include their experience in adjusting California public agency claims, in particular municipal government (city or county) claims, and length of time with the firm. The selected TPA shall not substitute the principal account representative(s) without prior approval of the Town Human Resources Director. The principal account representative will be expected to be fully involved and conversant in the details of claims administration on a day-to-day basis.
4. Scope of work for each Personnel (the percentage of time each is in the office versus the field; job duties of each outside the office; and the caseload for every person assigned to handle any portion of the Town's claims).
5. Description of the extent to which Town staff support will be required.

6. Please quote a total annual fee for each of the three years of the contract. Include all costs that will be charged to Town.
7. Provide a list of clients for which similar types of claims-related services are currently provided, preferably in the Northern California area. Please include the name, title, and phone number of three people, in three different companies, other than the Town, whom the Town can contact to discuss proposer's performance.
8. Provide a list of clients who have elected to contract with other TPAs during the past 24 months.
9. Describe how the firm ensures compliance with workers' compensation statutes and rules and regulation promulgated by the Department of Industrial Relations, including communicating legislative updates to your clients.
10. Please describe any services not previously covered which you believe may be of particular value to the Town (*i.e., web-based application that enables the injured worker to access the claim form, complete and submit it on-line*).
11. Please describe your firm's data processing capability as it applies to claims analysis, including samples of computer-generated reports. Please also describe your firm's capability for sharing data between your system and clients' PC or mainframe applications.
12. The proposal must indicate that the TPA agrees to be bound by the proposal and shall enter into a contract to provide services in a form as approved by the Town.
13. The proposal must be valid for ninety (90) calendar days from the final day of submission date of bids.
14. It is expected that there will be approximately 32 open files that will be transferred by Town to the new TPA. The proposer must state whether or not the cost of handling these existing open files are included in the annual fee quoted above. If not, then the proposer shall indicate the costs for these existing open files.

ANY PROPOSAL NOT CONTAINING FULL AND COMPLETE RESPONSES TO THE ABOVE MINIMUM ELEMENTS WILL BE DEEMED UNRESPONSIVE TO THIS RFP. ALL LATE AND UNRESPONSIVE PROPOSALS WILL BE ELIMINATED FROM FURTHER CONSIDERATION. ONLY THOSE SUBMISSIONS RESPONSIVE TO THIS RFP AND SUBMITTED BY THE DEADLINE WILL BE EVALUATED AND PRESENTED (ONE PROPOSAL) TO THE TOWN COUNCIL AS APPROPRIATE. FIVE COPIES OF THE RESPONDENT'S PROPOSAL SHALL BE SUBMITTED BY **NO LATER THAN 3:00 PM, April 2, 2010.**

## **V. SELECTION CRITERIA**

Proposals will be evaluated based on the following criteria:

1. Established record of consistent professional service and reputation within the industry, including customer service to employees and other clients.
2. Recent public sector experience, preferably in a municipal setting.
3. High quality references from public entities, particularly full service municipalities.
4. Availability and accessibility of Personnel (principal account representative, management and support staff), including the location of the office that will be servicing the Town.
5. Staff expertise and overall experience of personnel assigned to the work.
6. Established relationships with and knowledge of medical service providers in Santa Clara County and adjacent communities.
7. Cost effectiveness of medical and legal cost containment services and activities.
8. Competitive bidding as well as overall cost-benefit advantages will be significant factors in selection.